RECEIVED
CENTRAL FAX CENTER

AUG 2 2 2007

PATENT

Attorney Docket No.: 40129/07301 (1403)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)	
)	
Rick Schuessler)	
)	
Serial No.: 10/748,400)	Group Art Unit: 3629
)	
Filed: December 30, 2003)	Examiner: Jamisue A. Plucinski
)	
Confirmation No:)	
)	
For: PERSONAL INTELLGENT)	**Board of Patent Appeals and**
SHIPMENT SYSTEM AND)	**Interferences**
METHOD)	

Mail Stop: Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

In support of the Notice of Appeal filed May 22, 2007, and pursuant to 37 C.F.R.

§ 41.37, appellants present their appeal brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the

Examiner's final rejection of claims 1 - 24 in the Final Office Action dated February 23, 2007 as

clarified in the Advisory Action dated May 10, 2007. The appealed claims are set forth in the

attached Claims Appendix.

1.   <u>Real Party in Interest</u>

This application is assigned to Symbol Technologies, Inc., a subsidiary of Motorola, Inc., the real party in interest.

2.   <u>Related Appeals and Interferences</u>

There are no other appeals or interferences which would directly affect, be directly affected, or have a bearing on the instant appeal.

3.   <u>Status of the Claims</u>

Claims 1 - 24 have been rejected in the Final Office Action and are the subject of the present appeal.

4.   <u>Status of Amendments</u>

All amendments submitted by the Appellant have been entered.

5.   <u>Summary of Claimed Subject Matter</u>

The present invention relates to a method and system for providing a user with a personalized shipment system. (<u>See</u> Specification, p. 1, lines 23 - 24). Independent claim 1 recites a method including the step of registering a user by obtaining user data. As described in the specification of the present application, the user is registered by providing user data which is associated with a unique user identifier. (<u>Id.</u> at p. 1, lines 24 - 26). Claim 1 also recites generating label data for each of a plurality of labels, each label including a unique label

- 2 -

identifier in a machine language and associating the label identifier with the user identifier in a

computer database. According to the specification, a return label is generated based on a

sender's information and a unique label identifier (e.g., a serial number). (Id. at p. 4, lines 12 -

15; Fig. 3, step 302). Information included in the return label, including a sender's account

number, a unique serial number and other sender data, may be stored in a database. (Id. at p. 4,

lines 20 - 32).

         Claim 1 also recites receiving an item to be shipped including one of the labels

and recipient data located on the item, the recipient data including a destination data of the item,

in combination with determining whether the destination data is in a machine language and

translating, when the destination data is not in a machine language, the destination data into

machine language destination data. According to the specification, the sender prepares an

envelope for mailing by attaching the return label and providing destination data. (Id. at p. 6,

lines 18 - 21; Fig. 3, steps 304 and 306). When the envelope is received by a mail service, a

sorting machine checks the envelope for the destination data in a machine language. If the

destination data is not in a machine language, the sorting machine searches for destination

information in a human language and translates this information into machine language

destination data. (Id. at p. 7, lines 18 - 30; Fig. 3, step 308).

         Claim 1 further recites obtaining the unique label identifier and the machine

language destination data from the item using a machine capable of reading the machine

language during the shipment of the item, recording in the computer database tracking data based

- 3 -

on the machine language unique label identifier and the machine language data, the tracking data

including information regarding a shipping status of the item, and providing the tracking data in

response to a request, wherein the tracking data is provided using only the user identifier and the

destination data included in the request. As described in the specification, when the envelope is

subsequently scanned during shipping, a tracking number is generated by associating the serial

number with the destination data. (Id. at p. 8, lines 12 - 21). Data obtained from each scan may

be stored in a database, which may be accessed based on a request from a user for information

regarding the envelope, such as a status thereof. (Id. at p. 8, line 23 - p. 9, line 3).

Independent claim 13 recites a system including a first computing arrangement

generating label data for each of a plurality of labels, each label including a unique label

identifier in a machine language. (Id. at p. 4, lines 12 - 15; Fig. 1, No. 30; Fig. 2a, No. 46).

Claim 13 also recites a second computing arrangement including a database and storing user data

in the database, the second computing arrangement associating the user data with a unique user

identifier and associating the unique label identifier with the user identifier in the database. (Id.

at p. 1, lines 24 - 26; Fig. 1, No. 32). Claim 13 also recites a first shipment processing

arrangement receiving an item to be shipped, the item including one of the labels and recipient

data including destination data of the item, the first shipment processing arrangement

determining whether the destination data is in a machine language and, when the destination data

is not in a machine language, the first shipment processing arrangement translates the destination

data into the machine language destination data and marks the item with the machine language

- 4 -

destination data. (Id. at p. 7, lines 18 - 30; Fig. 1, No. 30).

Claim 13 also recites a second shipment processing arrangement obtaining the machine language unique label identifier and the machine language destination data from the item during the shipment, the second shipment processing arrangement recording in the database tracking data based on the association of the label identifier and the destination data, the tracking data including information regarding a shipping status of the item (Id. at p. 8, lines 12 - 21; Fig. 1, No. 30), wherein the tracking data is provided by the second computing arrangement in response to a request, wherein the tracking data is provided using only the user identifier and the destination data included in the request. (Id. at p. 8, line 23 - p. 9, line 3).

6.   Grounds of Rejection to be Reviewed on Appeal

I.   Whether claims 1 - 24 are unpatentable under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,394,354 to Wilz, Sr. et al. ("Wilz") in view of U.S. Patent No. 7,062,474 to Reiter and further in view of U.S. Patent App. No. 2005/0197892 to Bilibin et al. ("Bilibin").

7.   Argument

I.   The Rejection of Claims 1 - 24 Under 35 U.S.C. § 103(a) as Being Obvious Over U.S. Patent No. 6,394,354 to Wilz in view of U.S. Patent No. 7,062,474 to Reiter and further in view of U.S. Patent App. No. 2005/0197892 to Bilibin Should Be Reversed.

A.   The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 1 - 24 under 35 U.S.C.

- 5 -

§103(a) as unpatentable over Wilz in view of Reiter and Bilibin. (See 2/23/07 Office Action, p.

2).

Wilz discloses an Internet-based system and method for routing, tracking, and

delivering packages. (See Wilz, Abstract). Packages are provided with bar codes containing

URLs and zip code information, which may be scanned by a bar code reader to effect routing and

tracking of the packages. (Id.). Specifically, each package is logged into a database management

system and located on a server by a package login procedure. (Id. at col. 26, lines 16 - 20). In

this procedure, the server is accessed by reading a predesignated URL-encoded bar code symbol

specifying the address of the server on the Internet, package related information is entered via the

internet, a custom bar code symbol label encoded with a corresponding URL is created and

printed, and the label is applied to the package. (Id. at col. 26, lines 16 - 31). The database

management system may contain a number of fields pertaining to the package, including a

package identification number (PIN), a shipper identification number, destination information,

delivery instructions, etc. (Id. at col. 26, line 54 - col. 27, line 22). As each package is

transported, its bar code is scanned at package routing subsystems through which it moves, and

location information of the package is updated with each scan. (Id. at col. 29, lines 27 - 51).

Package related information may be viewed by reading the corresponding URL-encoded bar code

symbols into an Internet browser program using a bar code scanner. (Id. at col. 24, lines 13 - 17).

Reiter describes a computer system for providing commercial advertisements,

messages, coupons and other types of information on letters, parcels, and other written

- 6 -

communications to a receiver of the letter. (See Reiter, Abstract). If a letter is ready for delivery

sorting, an optical character recognition (OCR) device reads the address information and

converts it to a bar code that is printed or applied to the letter. The letter is then forwarded to a

bar code sorter for further sorting. (Id. at col. 5, lines 13 - 29). The bar code information is

compared with demographic or other data in a database and if a match is found, one or more

targeted pieces of information are printed on, applied or attached to the letter. (Id. at col. 5, lines

43 - 59).

Bilibin describes a system for determining origin and destination rating zone

identifiers corresponding to parcel carriers using an origin postal code and a destination postal

code as input. (See Bilibin, ¶ [0009]). In the system, package tracking is performed using one of

a carrier tracking number and a system tracking number, which are unique numbers assigned by a

carrier and generated internally by the system, respectively. (Id. at ¶¶ [0412] - [0414]).

B.   The Cited References Do Not Disclose Recording in the Computer
       Database Tracking Data Based on the Machine Language Unique Label
       Identifier and the Machine Language Data, the Tracking Data Including
       Information Regarding a Shipping Status of the Item" and "Providing the
       Tracking Data in Response to a Request, wherein the Tracking Data is
       Provided Using Only the User Identifier and the Destination Data
       Included in the Request as Recited in Claim 1.

Claim 1 recites a method for providing a user with a personalized shipment

system which includes the steps of "recording in the computer database tracking data based on

the machine language unique label identifier and the machine language data, the tracking data

- 7 -

including *information regarding a shipping status of the item*" and "providing the tracking data in response to a request, *wherein the tracking data is provided using only the user identifier and the destination data included in the request.*"

In the Final Office Action, the Examiner noted that Wilz fails to disclose or suggest providing tracking data by "using only the user identifier and the destination data included in the request," but cited Bilibin to cure this deficiency. (See 2/23/07 Office Action, p. 4). The Examiner maintained this rejection in the Advisory Action, stating that because Bilibin describes providing tracking information based on a user's account, this is purportedly equivalent to "providing the tracking data in response to a request, wherein the tracking data is provided using only the user identifier and the destination data included in the request," as recited in claim 1. (See 5/10/07 Advisory Action, p. 2).

Initially, the Appellant notes that, even if having access to the user's account by itself constitutes "using only the user identifier and the destination data included in the request," —which the Appellant does not concede—the user account is still accessed by entering a User ID and password. According to Bilibin, the user must log into the user account using both a User ID and a password. (See Bilibin, ¶ [0148]; Fig. 9). Without either the User ID or the password, the user cannot access the web page to track packages. Thus, the User ID and password are prerequisites to accessing the user account, and, therefore the tracking information.

Furthermore, even after accessing the user account, the tracking information is not provided "using only the user identifier and the destination data." Bilibin states that after the

- 8 -

user has logged into the user account, the user can request the shipping log and the system

displays the shipping log to the user. (Id. at ¶ [0407]). Thus, no further input of information is

required of the user once access to the user account has been granted. In contrast, claim 1

specifically recites that the user identifier and the destination data are included in the request.

Bilibin describes no such request because the system of Bilibin does not require shippers to input

information regarding their own shipments in order to view the shipping log. Thus, it is

respectfully submitted that Bilibin neither discloses nor suggests "wherein the tracking data is

provided using only the user identifier and the destination data included in the request," as

recited in claim 1.

In addition, the providing of the shipping log, as described by Bilibin, is

dependent on looking up tracking numbers. Bilibin states that once a buyer has completed his

portion of an eCommerce transaction by completing a series of buyer response screens, the

system enters a package tracking number into the shipping log for the benefit of the seller. (Id. at

¶ [0369]). Thus, the seller has indirect access to the system tracking number via his user account.

Because the seller has access to the system tracking number, the seller is able to request the

tracking information without being required to manually input the system tracking number.

Instead, as Bilibin describes, when the seller requests a shipping log of "Today's Packages," the

system accesses the system database to retrieve the shipping log of outbound packages that need

to be processed. (Id. at ¶ [0407]). The shipping log is retrieved from a database, which contains

a package table that includes information for each package, such as the system tracking number.

(Id. at ¶ [0408]). The system tracking number is used by the system to identify a particular package shipped using the system. (Id. at ¶ [0414]). Thus, Bilibin clearly teaches that the only way to look up a package is through the system tracking number, which is input by the system on behalf of the seller after accessing the user account, when the seller requests the shipping log. Therefore, any providing of tracking information is performed based on looking up the system tracking number rather than provided "using only the user identifier and the destination data," as recited in claim 1.

     Based on the reasons discussed above, it is respectfully submitted that Bilibin neither discloses nor suggests "providing the tracking data in response to a request, wherein the tracking data is provided using only the user identifier and the destination data included in the request," as recited in claim 1. The Appellant also respectfully submits that Reiter also fails to cure the deficiencies of Wilz and Bilibin. Reiter also relies on the use of conventional tracking numbers. Specifically, Reiter describes the use of a server-assigned tracking number and corresponding shipping label. (See Reiter, col. 10, lines 40 - 51). No other methods for obtaining status information are described or suggested by Reiter.

     Therefore, it is respectfully submitted that neither Wilz, nor Reiter nor Bilibin, either alone or in combination, disclose or suggest "the tracking data including information regarding a shipping status of the item" and "providing the tracking data in response to a request, wherein the tracking data is provided using only the user identifier and the destination data included in the request," as recited in claim 1. Appellants respectfully request that the Board

- 10 -

overturn the Examiner's rejection under 35 U.S.C. 103(a) of independent claim 1 and all the claims depending directly or indirectly therefrom (claims 2 - 12).

Claim 13 recites "a second shipment processing arrangement obtaining the machine language unique label identifier and the machine language destination data from the item during the shipment, the second shipment processing arrangement recording in the database tracking data based on the association of the label identifier and the destination data, *the tracking data including information regarding a shipping status of the item*" and "wherein the tracking data is provided by the second computing arrangement in response to a request, *wherein the tracking data is provided using only the user identifier and the destination data included in the request*." Thus, for at least the reasons discussed above with respect to claim 1, it is respectfully submitted that claim 13 is allowable. Appellants respectfully submit request that the Board overturn the Examiner's rejection under 35 U.S.C. § 103(a) of independent claim 13 and all the claims depending directly or indirectly therefrom (claims 14 - 24).

- 11 -

Serial No.: 10/748,400
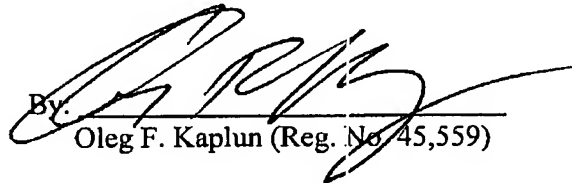Group Art Unit: 3629
Attorney Docket No.: 40129/07301 (1403)

9.   Conclusion

For the reasons set forth above, Appellant respectfully requests that the Board

reverse the final rejections of the claims by the Examiner under 35 U.S.C. § 103(a) and indicate

that claims 1 - 24 are allowable.

Respectfully submitted,

Date: August 22 2007

By:

Oleg F. Kaplun (Reg. No. 45,559)

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, NY 10038
Tel: (212) 619-6000
Fax: (212) 619-0276

- 12 -

CLAIMS APPENDIX

1.   (Previously presented) A method for providing a user with a personalized shipment system, comprising:

registering a user by obtaining user data;

associating the user data with a unique user identifier;

generating label data for each of a plurality of labels, each label including a unique label identifier in a machine language;

associating the label identifier with the user identifier in a computer database;

receiving an item to be shipped including one of the labels and recipient data located on the item, the recipient data including a destination data of the item;

determining whether the destination data is in a machine language;

translating, when the destination data is not in a machine language, the destination data into machine language destination data;

obtaining the unique label identifier and the machine language destination data from the item using a machine capable of reading the machine language during the shipment of the item;

recording in the computer database tracking data based on the machine language unique label identifier and the machine language data, the tracking data including information regarding a shipping status of the item; and

providing the tracking data in response to a request, wherein the tracking data is provided using only the user identifier and the destination data included in the request.

2.   (Previously Presented) The method according to claim 1, wherein the machine language

unique label identifier and the machine language destination data are stored on the item in one of

a barcode and an RFID tag.

3.   (Original) The method according to claim 1, further comprising:

generating, using the label data, the plurality of labels by at least one of the user, a postal

delivery service and a predetermined third party provider.

4.   (Original) The method according to claim 1, wherein the tracking data includes time

data and location data corresponding to the scanning.

5.   (Original) The method according to claim 1, wherein the label data is stored in at least

one of a barcode and an RFID tag.

6.   (Original) The method according to claim 1, wherein the machine language destination

data includes at least one recipient name and a recipient address code.

7.   (Original) The method according to claim 6, wherein the machine language destination

data includes a further code identifying each of a plurality of recipient names which have the

same recipient address code.

8.   (Original) The method according to claim 1, wherein the label data includes optional

additional data generated by the user.

9.   (Original) The method according to claim 1, wherein the label data, the destination data

and postage data are stored on the label as a two-dimensional barcode.

10.   (Original) The method according to claim 6, further comprising:

     associating by the user the recipient address code with a predetermined recipient

identifier.

11.   (Original) The method according to claim 8, wherein the tracking data includes the

optional additional data.

12.   (Original) The method according to claim 1, wherein the tracking data includes an arrival

date indicative of one of an actual date and an estimated date of arrival of the item at the

destination.

13.   (Previously presented) A system for providing a user with a personalized shipment

system for shipment of an item, comprising:

     a first computing arrangement generating label data for each of a plurality of labels, each

label including a unique label identifier in a machine language;

a second computing arrangement including a database and storing user data in the

database, the second computing arrangement associating the user data with a unique user

identifier and associating the unique label identifier with the user identifier in the database;

a first shipment processing arrangement receiving an item to be shipped, the item

including one of the labels and recipient data including destination data of the item, the first

shipment processing arrangement determining whether the destination data is in a machine

language and, when the destination data is not in a machine language, the first shipment

processing arrangement translates the destination data into the machine language destination data

and marks the item with the machine language destination data; and

a second shipment processing arrangement obtaining the machine language unique label

identifier and the machine language destination data from the item during the shipment, the

second shipment processing arrangement recording in the database tracking data based on the

association of the label identifier and the destination data, the tracking data including information

regarding a shipping status of the item,

wherein the tracking data is provided by the second computing arrangement in response

to a request, wherein the tracking data is provided using only the user identifier and the

destination data included in the request.

14.   (Original) The system according to claim 13, wherein the machine language unique label

identifier and the machine language destination data are stored on the item in one of a barcode

and an RFID tag, and wherein the first shipment processing arrangement includes at least one of

a barcode reader, a barcode writer, an RFID tag reader and an RFID tag writer.

15.   (Original) The system according to claim 13, further comprising:

a printing arrangement generating the plurality of labels by at least one of the user, a

postal delivery service and a predetermined third party provider using the label data.

16.   (Original) The system according to claim 15, wherein the printing arrangement includes

at least one of a barcode writer and an RFID tag writer.

17.   (Original) The system according to claim 13, wherein the tracking data includes time

and location data corresponding to receipt of the item by the second shipment processing

arrangement.

18.   (Previously Presented) The system according to claim 13, wherein the machine

language destination data includes at least one recipient name and a recipient address code.

19.   (Original) The system according to claim 18, wherein the machine language destination

data includes a further code identifying each of a plurality of recipient names which have the

same recipient address code.

20.   (Original) The system according to claim 13, wherein the label data includes optional

additional data generated by the user.

21.   (Original) The system according to claim 13, wherein the label data, the machine

language recipient data and postage data are stored on the label as a two-dimensional barcode.

22.   (Original) The system according to claim 18, wherein the user associates the recipient

address with a recipient identifier.

23.   (Original) The system according to claim 20, wherein the machine language recipient

data includes a further code indicative of each of a plurality of recipients located at the

destination.

24.   (Original) The system according to claim 13, wherein the tracking data includes an

arrival date indicative of one of an actual date and an estimated date of arrival of the item at the

destination.

Serial No.: 10/748,400
Group Art Unit: 3629
Attorney Docket No.: 40129/07301 (1403)

EVIDENCE APPENDIX

No evidence has been submitted herewith or is relied upon in the present appeal.

Serial No.: 10/748,400
Group Art Unit: 3629
Attorney Docket No.: 40129/07301 (1403)

RELATED PROCEEDINGS APPENDIX

There are no related proceedings and/or decisions which relate to the present

appeal.